

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BRIAN FRANK GUERRY,

Plaintiff,

V.

SCOTT FRAKES, Director, BRIAN  
GAGE, Warden, GUIFFE, Case  
Worker, THOMPSON, Case Worker,  
and NEBRASKA DEPARTMENT OF  
CORRECTIONS AGENCY,

Defendants.

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8:15CV323

**MEMORANDUM  
AND ORDER**

Plaintiff filed a motion requesting the appointment of counsel in this matter. (Filing No. [20](#).) The court cannot routinely appoint counsel in civil cases. In [Davis v. Scott](#), 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” *Id.* Having considered these factors, the request for the appointment of counsel will be denied without prejudice to reassertion at a later time.

On May 20, 2016, Plaintiff filed a Motion for Default Judgment (Filing No. [26](#)), asserting that Defendants had failed to answer or otherwise defend in this matter. This motion will be denied as Defendants filed a timely motion to dismiss. (Filing No. [24](#).)

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Appoint Counsel (Filing No. [20](#)) is denied without prejudice to reassertion.
2. Plaintiff's Motion for Default Judgment (Filing No. [26](#)) is denied.

DATED this 27<sup>th</sup> day of June, 2016.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge